TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

HB 139 – SB 799

March 29, 2017

SUMMARY OF ORIGINAL BILL: Requires an individual or group health insurance policy or contract providing prescription drug coverage in this state to permit and apply a prorated daily cost-sharing rate to prescriptions that are dispensed by a network pharmacy for a partial supply if the prescriber or pharmacist determines the fill or refill to be in the best interest of the patient and the patient requests or agrees to a partial supply for the purpose of synchronizing the patient's medications.

Prohibits an individual or group health insurance policy or contract from denying coverage for the dispensing of a medication that is dispensed by a network pharmacy on the basis that the dispensing is for a partial supply, if the prescriber or pharmacist determines the fill or refill to be in the best interest of the patient and the patient requests or agrees to a partial supply for the purpose of synchronizing the patient's medication.

Prohibits an individual or group health insurance policy or contract providing prescription drug coverage from using payment structures incorporating prorated dispensing fees. Requires dispensing fees for partially filled or refilled prescriptions to be paid in full for each prescription dispensed, regardless of any prorated copay for the beneficiary or fee paid for alignment services.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - $17,546,800/FY17-18
$15,101,200/FY18-19 and Subsequent Years

Increase Federal Expenditures - $33,136,300/FY17-18
$28,471,600/FY18-19 and Subsequent Years

Increase Local Expenditures – Exceeds $24,000/FY17-18 and Subsequent Years*

CORRECTED IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue - $50,508,900/FY17-18
$43,398,500/FY18-19 and Subsequent Years

Increase Business Expenditures –
Less than $50,508,900/FY17-18
Less than $43,398,500/FY18-19 and Subsequent Years

SUMMARY OF AMENDMENT (006295): Deletes and rewrites the bill to add language to the proposed legislation that adds conditions under which an individual or group health insurance policy or contract providing prescription drug coverage in this state must permit and apply a prorated daily cost-sharing rate to prescriptions that are dispensed by a network pharmacy for a partial supply if the prescriber or pharmacist determines the fill or refill to be in the best interest of the patient and the patient requests or agrees to a partial supply for the purpose of synchronizing the patient's medications. Further adds language that declares that the individual or group health insurance policy or contract shall not be liable to the pharmacy for the patient's portion of the prorated copay or the amount that was not paid by the patient due to the proration.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures - $15,809,600/FY17-18
$13,608,500/FY18-19 and Subsequent Years

Increase Federal Expenditures - $29,822,700/FY17-18
$25,624,400/FY18-19 and Subsequent Years

Increase Local Expenditures – Exceeds $24,000/FY17-18 and Subsequent Years*

Assumptions for the bill as amended:

- The Bureau of TennCare will incur an average dispensing fee of $9.21 per prescription.
- For purposes of this fiscal note, the Bureau of TennCare was able to identify 238,330 enrollees that could be impacted by the proposed legislation with 694,825 possible synchronization refill claims; resulting in a total cost for the initial set-up estimated to be $6,399,338 (694,825 x $9.21).
- For annual costs, the Bureau of TennCare reviewed new prescriptions written for enrollees. Claims and enrollees for the third quarter of 2016 were compared to the same enrollees in the fourth quarter of 2016 to find new prescriptions that the enrollees had filled. Enrollees who were found in the fourth quarter and not in the third quarter were excluded from the findings.
- TennCare found 1,060,223 new prescriptions in the fourth quarter for enrollees present in the third quarter. Additional dispensing fees attributable to these prescriptions for purposes of synchronizing with the enrollees other medications equaled $9,764,654 (1,060,223 x $9.21) for one quarter. Annualized, the recurring costs are estimated to be $39,058,615 ($9,764,654 x 4 quarters).

- The total increase in expenditures for the TennCare program in FY17-18 is estimated to be $45,457,953 ($6,399,338 + $39,058,615). Medicaid expenditures receive matching funds at a rate of 65.605 percent federal funds and 34.395 percent state funds. Of this amount, $15,635,263 ($45,457,953 x 34.395%) will be state funds and $29,822,690 ($45,457,953 x 65.605%) will be in federal funds.
- The total increase in expenditures for the TennCare program in FY18-19 and subsequent years is estimated to be $39,058,615. Of this amount, $13,434,211 ($39,058,615 x 34.395%) will be in state funds and $25,624,404 ($39,058,615 x 65.605%) will be in federal funds.
- Based on information provided by the Division of Benefits Administration (Benefits Administration), Benefits Administration's contracted pharmacy benefits manager (PBM) found 62,152 claims for less than 28 days that were filled continuously across 25,040 members. It is assumed Benefits Administration will experience a loss of copayments estimated to be $300,000.
- It is estimated that 52 percent of members are on the state plan, 40 percent of members are on the Local Education Plan and the remaining 8 percent of members are in the Local Government Plan.
- According to Benefits Administration, the state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of $124,800 ($300,000 x 52.0% x 80.0%).
- According to Benefits Administration, the state contributes 45 percent of instructional staff premiums (75 percent of Local Education Plan members) and 30 percent of support staff members premiums (25 percent Local Education Plan members) resulting in an increase in state expenditures estimated to be $49,500 [($300,000 x 40.0% x 75.0% x 45.0%) + ($300,000 x 40.0% x 25.0% x 30.0%)].
- The total increase in state expenditures is estimated to be $15,809,563 ($15,635,263 + $124,800 + $49,500) in FY17-18.
- The total recurring increase in state expenditures is estimated to be $13,608,511 ($13,434,211 + $124,800 + $49,500) in FY18-19 and subsequent years.
- The state does not contribute to the Local Government Plan; any increase in premiums will be entirely absorbed by the participating agencies and their members.
- It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be $24,000 ($300,000 x 8%).
- It is unknown the impact on local governments that do not opt into the Local Government Plan; therefore, the total increase in local expenditures is estimated to exceed the $24,000 increase to the state plan.
- Based on information provided by the Department of Commerce and Insurance, the provisions of the legislation can be incorporated into the review process utilizing existing resources.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Increase Business Revenue - $45,458,000/FY17-18
$39,058,600/FY18-19 and Subsequent Years

Increase Business Expenditures – Less than $45,458,000/FY17-18
Less than $39,058,600/FY18-19 and Subsequent Years

Assumptions for the bill as amended:

- The additional co-payments and dispensing fees will result in an increase in business revenue estimated to exceed $45,457,953 in FY17-18 and $39,058,615 in FY18-19 and subsequent years.
- The estimated increase in business expenditures is estimated to be less than $45,457,953 in FY17-18 and less than $39,058,615 in FY18-19 and subsequent years.
- It is assumed that the additional co-payments and dispensing fees will sufficiently cover any additional costs incurred by pharmacies for synchronizing customers' medications in order for pharmacies to remain solvent.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

/jem